

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

FEDERAL TRADE COMMISSION, *et al.*

Plaintiffs,

v.

ROOMSTER CORP., *et al.*

Defendants.

Case No. 1:22-cv-7389

**PARTIES' PROPOSED DISCOVERY PLAN**

Plaintiffs and Defendants submit this outline of their proposed discovery plan in accordance with Fed. R. Civ. P. 26(f)(2) and (3) as follows:

**(A) what changes should be made in the timing, form, or requirement for disclosures under Rule 26(a), including a statement of when initial disclosures were made or will be made;**

The Civil Case Management Plan ("CCMP") entered by Court at Doc. 41 states that Fed. R. Civ. P. 26(a) disclosures shall be exchanged by December 9, 2022. No changes are anticipated to the form or requirement for such disclosures.

**(B) the subjects on which discovery may be needed, when discovery should be completed, and whether discovery should be conducted in phases or be limited to or focused on particular issues;**

The subjects on which discovery may be needed include: (i) Plaintiffs' allegations regarding false endorsements and other misrepresentations, including counts I-XV set forth in Plaintiffs' Complaint; (ii) Plaintiffs' allegations regarding individual liability; (iii) the amount and extent of alleged consumer injury caused by Defendants' alleged unlawful practices; (iv) the amount of Defendants' alleged ill-gotten gains; (v) the number of alleged false endorsements and

misrepresentations and other factors to be considered in assessing the amount of civil penalties; (vi) all defenses asserted by Defendants; (vii) any expert disclosures; and (viii) all other matters relevant to the conduct and practices alleged in the Complaint, Plaintiffs' claims for relief, and Defendants' defenses.

The CCMP states that fact discovery must be completed on or before September 18, 2023, and expert discovery must be completed on or before December 15, 2023.

**(C) any issues about disclosure, discovery, or preservation of electronically stored information, including the form or forms in which it should be produced;**

There are no issues at this time. The parties are considering a proposed consent order request to revise the Court's rules governing e-discovery.

**(D) any issues about claims of privilege or of protection as trial-preparation materials, including—if the parties agree on a procedure to assert these claims after production—whether to ask the court to include their agreement in an order under Federal Rule of Evidence 502;**

There are no such issues at this time.

**(E) what changes should be made in the limitations on discovery imposed under these rules or by local rule, and what other limitations should be imposed; and**

The parties have discussed excluding internal legal team emails from discovery and are working towards an agreement.

**(F) any other orders that the court should issue under Rule 26(c) or under Rule 16(b) and (c).**

Defendants have indicated that they will request a protective order, but at this time, Plaintiffs have not agreed to such request. Defendants also stated that they will move the Court to stay discovery pending resolution of their Motion to Dismiss Plaintiffs' Complaint; however, that motion will be contested, and Plaintiffs will file an opposition.

Dated: Nov. 22, 2022

Respectfully submitted,

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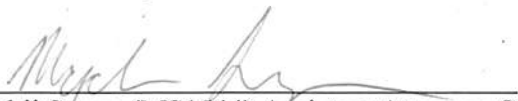
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